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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1320th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 July 1994, at 10.30 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.55 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifty-first session of the Human Rights Committee. He welcomed Mr. José Ayala Lasso, High Commissioner for Human Rights, and noted with pleasure the presence in the meeting room of Mr. Houshmand, former Chief of the Implementation Branch, Centre for Human Rights.

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Mr. AYALA LASSO (High Commissioner for Human Rights) commended the pioneering role and exemplary achievements of the Committee, with which - as with the other human rights treaty bodies - he intended to establish harmonious and fruitful working relations in the exercise of his own important and delicate mission. Any ideas or suggestions about how best the treaty bodies could support the mandate of the High Commissioner, particularly his efforts to ensure compliance with obligations undertaken in ratifying or acceding to international human rights instruments, would be most welcome.

3. He underscored the importance of recent initiatives by the Committee to promote more effective implementation of the Covenant, notably through the practice of issuing a comprehensive set of final comments after the consideration of each State party's report, and of its recently adopted general comment on the rights of persons belonging to minorities. Equally impressive had been the Committee's work under the First Optional Protocol, which had secured some 77 ratifications of that instrument, as well as the development, over the years, of jurisprudence on substantive provisions of the Covenant that was increasingly resorted to in States parties. Efforts to strengthen the legal force of the Committee's decisions by such means as the follow-up procedure would undoubtedly bear fruit.

4. Discrimination, injustice and flagrant violations of fundamental human rights - including the most basic right of all, the right to life - were still rife, but he was convinced that significant improvements in the situation could be achieved through commitment and the determination to cooperate, especially in the promotion, acceptance and implementation of the Covenant and its Optional Protocols. For his part, he intended to broaden and expand the dissemination of information about the Covenant and the Committee's activities, and to make a special point in his contacts with States of urging them to ratify the Covenant and the Optional Protocols. It was also his intention to accelerate the provision of technical assistance and advisory services to States that required help in removing obstacles to ratification.

5. The creation of a system of effective implementation of the recommendations of the treaty bodies was imperative, and he considered it to be one of the basic components of his mandate. He pledged himself to work closely with the Committee in the pursuit of that goal.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/97)

6. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (item 2 of the agenda)

7. The CHAIRMAN invited the Committee to consider the proposed programme of work, which was before it in an informal document.

8. The proposed programme of work was adopted.

9. The CHAIRMAN invited the Chairperson of the Working Group on Article 40 to make a brief oral report.

10. Mrs. EVATT (Chairperson of the Working Group on Article 40) said that the Group, comprising Mr. Aguilar Urbina, Rapporteur, Mr. El Shafei, Mr. Wennergren and herself, had prepared draft lists of issues concerning periodic reports by Togo, Italy and Cyprus, scheduled for consideration at the current session; a list concerning the periodic report by Jordan - also due to be taken up - had been prepared at the previous session. In addition, the Group had considered a draft general comment relating to article 25 of the Covenant and was on the point of finalizing its recommendation in that respect; she hoped that sufficient time would be available for examination of the draft in plenary. The Group had also examined, at the Committee's request, a number of issues related to methods of work: the format of the annual report to the General Assembly; the content and layout of the final comments for inclusion in that report; the matter of overdue reports and reports by States which appeared to be facing emergencies; the question of preparing lists of issues further in advance, in order that States might be given more notice of such lists; the integration of women's rights in the work of the treaty bodies and relevant recommendations by the World Conference on Human Rights and the General Assembly; computerization; and the question of the title of the official records of the Committee. A written report on the Working Group's deliberations would be distributed shortly.

11. Mr. HERNDL and Mr. POCAR urged that the report of the Working Group should be distributed in time for adequate discussion of its contents, more especially the recommendations concerning the format of the annual report and related organizational issues.

12. Mr. AGUILAR URBINA (Rapporteur of the Working Group on Article 40) summarized the recommendations prepared by the Group in connection with the format of the annual report; he pointed out that they largely reflected guidelines already approved by the Committee, notably in regard to discontinuation of the practice of including summaries of the consideration of States parties' reports, and to the presentation of the Committee's views on communications.

13. Mrs. EVATT (Chairperson of the Working Group on Article 40) reiterated that the Group's recommendations on the matters to which she and the Rapporteur had alluded would be made available in writing to members of the Committee as soon as the Group had completed its deliberations, which she expected to be in a few hours' time.

14. The CHAIRMAN said that everything possible would be done to ensure that the plenary had sufficient time to consider conclusions or recommendations by the Working Group that required formal acknowledgement or endorsement.

15. He invited the Chairperson/Rapporteur of the Working Group on Communications to make a brief oral report.

16. Mr. BRUNI CELLI (Chairperson/Rapporteur of the Working Group on Communications) said that the Group, consisting of Mr. Dimitrijevic, Mr. Ndiaye, Mr. Mavrommatis, Mr. Sadi and himself, had held five meetings from 28 to 30 June 1994 to consider communications. In the course of its deliberations the Group had adopted 15 recommendations in connection with article 5, paragraph 4, of the First Optional Protocol; it had also prepared a considerable number of draft views relating to different countries. The Group had further adopted seven decisions on admissibility and had recommended that eight communications be declared inadmissible, while in two cases it had concluded that additional information should be sought from the parties concerned. It had not been possible to discuss recommendations relating to three specific sets of draft views, pending their publication in all working languages. He therefore suggested that time should be made available for a discussion of those draft texts.

17. The CHAIRMAN invited the Chief of the Communications Section of the Centre for Human Rights to provide additional clarifications.

18. Mr. MOLLER (Chief, Communications Section, Centre for Human Rights) said that, while he welcomed the fact that an additional week's meeting time had been made available to expedite the work of the Committee in connection with the Optional Protocol, he felt it necessary to explain the particular difficulties currently facing the Centre for Human Rights. In the past few months, the Centre had focused its efforts on implementing decisions adopted at the Committee's previous session and preparing documentation for the current session, with the result that routine work in connection with the Optional Protocol had virtually ground to a halt. At the Centre there were currently approximately 600 communications from a variety of sources relating to new and pending cases which urgently required attention. Moreover, members would have noticed the dwindling number of fact sheets, once considered a vital tool for their work, and the absence of new lists of communications.

19. Referring to suggestions made to change the current format of annual reports, he stressed the need to be realistic regarding the timely publication of selected decisions. He recalled that, since the Committee had decided at its twelfth session that selected decisions under the Optional Protocol should be prepared on an annual basis, only two volumes had been issued - in other words, approximately one volume every five years. Moreover, the repeated requests for additional resources that would provide the Centre with the necessary staff to handle such work had so far proved unsuccessful. Meanwhile, the workload in other areas continued to increase, resulting in the deteriorating performance of the Centre, as noted by the Committee in its recent reports. Accordingly, any change in the format of the annual report would render the timely publication of selected decisions even more difficult. Lastly, in view of the very short time available between the Committee's

summer and autumn sessions and the need to clear the current backlog of correspondence at the Centre, he urged members to be understanding with regard to the preparation of documentation for the forthcoming session.

20. Mr. FRANCIS, sympathizing with Mr. Moller's remarks, said that the shortage of staff at the Centre had long been a matter of great concern to him. While he welcomed the appointment of a High Commissioner for Human Rights, he stressed that there seemed little point in laying greater emphasis on human rights issues unless the necessary support facilities were provided. He hoped that members would give such matters due consideration at the current session.

21. Mr. POCAR said he shared the concerns expressed regarding the shortage of staff at the Centre for Human Rights and its direct consequences for the work of the Committee and hoped that a suitable solution could be found. As to Mr. Moller's more specific comments, he was somewhat sceptical about the idea of publishing selected decisions, particularly since the annual report was the only document which provided information on the decisions in question. Furthermore, even if the volumes were updated, he wondered whether they would suit the purposes of the Committee. Such matters must be taken up in greater detail by the Committee in due course.

22. Mr. HERNDL said that, if anything, Mr. Moller had understated the problems facing the Centre for Human Rights, which must be properly addressed by the Committee at the current session. In particular, the vital importance of processing communications received under the Optional Protocol was not duly reflected in the Centre's activities. The Committee must impress on the administration of the Centre the need to accord an appropriate level of priority to such work in future. He therefore suggested that the matter should be discussed in detail with a view to formulating an appropriate recommendation on the necessity of strengthening the Communications Section of the Centre for Human Rights, in particular through the recruitment of staff with appropriate legal training.

23. The CHAIRMAN said that the Working Group on Article 40 would hold its final meeting that afternoon and that its report would be available, in the English version only, the following day. In order to allow time for the report to be translated into French and Spanish, he suggested that its consideration should be deferred until the end of the week.

24. It was so decided.

25. The CHAIRMAN recalled that the list of issues relating to the third periodic report of Jordan (CCPR/C/76/Add.1) had been adopted by the Committee at its previous session. Since that list had subsequently been forwarded to the Government of Jordan through its Mission, there was no need for the Committee to discuss the matter any further.

26. He invited the Committee to consider and adopt the draft lists of issues relating to the periodic reports of Togo, Italy and Cyprus.

List of issues to be taken up in connection with the consideration of the second periodic report of Togo (CCPR/C/63/Add.2)

Section I: Constitutional and legal framework within which the Covenant is implemented, state of emergency, non-discrimination, equality of the sexes, protection of the family, right to take part in the conduct of public affairs, and rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 25, 26 and 27)

27. Section I was adopted.

Section II: Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 9, 10 and 14)

28. Mr. POCAR said that the question raised in paragraph (a), which might well refer to an undeclared state of emergency, seemed to overlap with the question raised in section I (h). He wondered whether the two questions might be combined and sought further clarification on their intent.

29. Mr. SADI wondered whether the question in paragraph (f) was really necessary, in view of the fact that a standing committee on torture already existed.

30. Mr. PRADO VALLEJO suggested that a specific reference to the relevant United Nations rules concerning the use of firearms by law enforcement officials should be included in paragraph (c).

31. Mrs. EVATT, replying to Mr. Pocar's query, pointed out that the question raised in section I (h) referred to the precise constitutional and legal provisions invoked in the absence of any specific safeguards, whereas the question in section II (a) was quite different, since it focused on the more negative aspects of such situations. Mr. Sadi's query concerning paragraph (f) had also been raised by some members of the Working Group, which had agreed that the matter should be referred to the Committee for a decision. She endorsed Mr. Prado Vallejo's suggestion for the inclusion of a specific reference to the relevant United Nations rules under paragraph (c).

32. Mr. WENNERGREN, while welcoming Mr. Prado Vallejo's suggestion, stressed the need for the correct title of the provisions concerned to be used when incorporating the proposed amendment.

33. The CHAIRMAN said that the Committee should make it quite clear to the Togolese delegation that it need not repeat any information already provided in connection with section I (h) when replying to the question in section II (a). He noted that the Committee was in favour of retaining paragraph (f) and amending paragraph (c) as suggested by Mr. Prado Vallejo. The Secretariat would look into the matter and include an appropriate reference, as requested.

34. Section II, as amended, was adopted.

Section III: Freedom of movement and expulsion of aliens, right to privacy, freedom of opinion and expression, and freedom of association and assembly (arts. 12, 13, 17, 19, 20, 21 and 22)

35. Mrs. EVATT proposed that the heading of the section should include a reference to freedom of religion, since paragraph (b) of the section was concerned with the question of religious denominations.

36. It was so decided.

37. Section III, as amended, was adopted.

38. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of Italy (CCPR/C/64/Add.8)
Section I: Constitutional and legal framework within which the Covenant is implemented; non-discrimination; equality of the sexes and protection of family and children; right to participate in the conduct of public affairs; rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 25, 26 and 27)

39. Mr. SADI, referring to paragraph (b), stressed the need for the Committee to make it clear that it had already considered the situation in question and therefore merely wished to have updated information.

40. The CHAIRMAN suggested that the point raised by Mr. Sadi might be dealt with by inserting the word "new" between the words "any" and "factors".

41. Mr. AGUILAR URBINA said that, rather than using the word "new", it would be preferable to add at the end of the sentence the words "during the period under review".

42. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the amendment proposed by Mr. Aguilar Urbina.

43. It was so decided.

44. Section I, as amended, was adopted.

Section II: Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 8, 9, 10 and 14)

45. Mr. BAN said that the first part of paragraph (h) was satisfactory, but that the second part, relating to the possible negative effect on criminal and civil procedures, was unclear. He therefore thought that that part of the paragraph should be redrafted.

46. Mr. WENNERGREN said the Working Group had found that the reform had been profound and had thought that it might have had some negative effect.

47. Mr. SADI said, with regard to paragraph (a), that the Committee wished to have information concerning any official plans to ratify the Second Optional Protocol to the Covenant with a view to the abolition of the death penalty.

48. With respect to paragraph (c), he said that the complaints referred to were official in nature.

49. With regard to paragraph (i), it might be appropriate to add the words "and its conformity with the Covenant".

50. Mr. HERNDL suggested that paragraph (h) should be divided into two sentences, the first ending with the words "legal proceedings". The second sentence should be redrafted to read: "What are the overall effects on criminal and civil procedures of the reform?".

51. If necessary, paragraph (a) could be amended to read: "Does the Government intend in the foreseeable future to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty (see para. 27 of the report)?". However, he preferred the existing wording of the paragraph.

52. After an exchange of views in which Mr. AGUILAR URBINO, Mr. PRADO VALLEJO and Mrs. EVATT took part, the CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt Mr. Herndl's proposed amendments to paragraphs (a) and (h).

53. It was so decided.

54. Section II, as amended, was adopted.

Section III: Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association (arts. 12, 13, 17, 18 and 19).

55. Section III was adopted.

56. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the second periodic report of Cyprus (CCPR/C/32/Add.18)

Section I: Constitutional and legal framework within which the Covenant is implemented: non-discrimination: equality of the sexes: protection of family and children: and rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 26 and 27)

57. Mr. BRUNI CELLI wondered whether, in view of the special situation of Cyprus, which had part of its territory occupied, the Committee should not look into the role of the State party in protecting the human rights of its nationals in the occupied area. Had the State party taken any action in that regard? According to information received, there were serious problems, including, for example, the detention of women and children. On the occasion

of the recent meeting of the Inter-Parliamentary Union in Cyprus, there had been demonstrations condemning the grave human rights violations that had occurred in the occupied area.

58. Mr. PRADO VALLEJO, referring to paragraph (f), said the question "How far has the public been informed of the Human Rights Committee's consideration of the report?" was a good one, and should be included in all lists of issues to be taken up with States parties.

59. Mr. SADI, referring to question (h), suggested that the phrase "the right to take nationality from their mother" should be amended to read "the right to acquire the nationality of their mother".

60. Mrs. EVATT considered that the wording "the right to acquire nationality through their mother" was preferable.

61. In reply to the point raised by Mr. Bruni Celli, she said the view of the Working Group had been that the Government of Cyprus could concern itself only with the rights and freedoms of people within its actual jurisdiction, and that it had no power in regard to the rights of those living in the occupied part of the country. Because that was the general understanding, and because virtually no United Nations Member States recognized the Turkish occupation, there was silence on the issue, and it was difficult to know how it should be dealt with. The occupation was one of the "factors and difficulties" mentioned in the core document (HRI/CORE/1/Add.28).

62. The CHAIRMAN recalled that, during consideration of the report of the Federal Republic of Yugoslavia, the Committee had in fact asked questions about how the Government was trying to ensure implementation of the Covenant in parts of the country not covered by its authority. However, the situation in Cyprus was different, in that the United Nations viewed the occupation as unlawful. Virtually no State had recognized the regime that was in de facto control of the occupied part of the territory.

63. Mr. BRUNI CELLI said that, without prejudice to any dialogue the Committee might have with the delegation of Cyprus, he believed that, if only for reasons of precedent, some mention should be made of the matter in the list of issues. While it was true that the Government of Cyprus could not be held responsible for the human rights situation in the occupied area, some steps needed to be taken to obtain information about it. If the Committee could not ask the Government of Turkey for that information, in view of the fact that its occupation of the area was not recognized by the United Nations, it would have somehow to obtain it from the Government of Cyprus.

64. Mr. WENNERGREN pointed out that, if the Committee wished to raise the question of human rights in the occupied area, it should do so with reference to paragraph 13 of the second periodic report of Cyprus (CCPR/C/32/Add.18), which stated: "As a result of the occupation of approximately 37 per cent of the territory of the Republic of Cyprus by the armed forces of Turkey, the Government of the Republic is prevented from exercising its authority over and assuring respect of human rights in the occupied area. Therefore, the information given in this report concerns only persons under the effective jurisdiction of the Republic of Cyprus.".

65. Mrs. EVATT suggested that, if the Committee wished to include a question of the kind under discussion in the list of issues, it might be worded to read: "Having regard to paragraph 13 of the report, is the Government of Cyprus able to provide any information about the enjoyment of rights and freedoms under the Covenant in the occupied part of Cyprus?". However, she feared that the inclusion of such a question in the list of issues might lead to lengthy debate. It might be better to raise it orally during the session when the delegation of Cyprus was present.

66. Mr. PRADO VALLEJO said the point raised by Mr. Bruni Celli was a good one. He supported the suggestion that a specific question be put to the delegation of Cyprus on the matter.

67. Mr. POCAR also supported that approach. Since Turkey had not ratified the Covenant, it could not be asked about the situation in the occupied area. The only way the Committee could obtain information was by asking the delegation of Cyprus for it in the course of the session.

68. The CHAIRMAN said he took it the members agreed that, in order to convey the Committee's concern, a new question (i) should be added to the list of issues, along the lines suggested by Mrs. Evatt.

69. It was so decided.

70. Section I, as amended, was adopted.

Section II: Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 8, 9, 10 and 14)

71. Mr. PRADO VALLEJO, referring to question (b), suggested that the same formulation as that agreed for section II (c) of the list of issues to be taken up in connection with the report of Togo should be included.

72. It was so decided.

73. Mr. POCAR proposed that, in the light of question (e), reference should be made in the title of section II to article 11.

74. It was so decided.

75. Section II, as amended, was adopted.

Section III: Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, and right to participate in the conduct of public affairs (arts. 12, 13, 17, 18, 19, 20, 21 and 22)

76. Mr. PRADO VALLEJO, referring to question (a), said the term "Government-controlled area" was inappropriate, since Cyprus was a sovereign State and as such exercised legitimate control over its own territory. Wording along the lines of "in the territory under the jurisdiction of the Government of Cyprus" would be preferable.

77. Mr. WENNERGREN proposed the wording "in the area under the effective jurisdiction of the Government of Cyprus".

78. It was so decided.

79. Section III, as amended, was adopted.

80. The list of issues as a whole, as amended, was adopted.

The meeting rose at 12.50 p.m.